

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Martin Teran, # 60373,)	C/A No. 8:10-3101-JMC-BHH
)	
Plaintiff,)	
)	
vs.)	Order
)	
James Metts, and)	
Trinity Food Services Group, Inc.,)	
)	
Defendants.)	
)	

This matter is before the Court because of Plaintiff's failure to comply with the magistrate judge's Order of December 16, 2010. ECF No. 6.

A review of the record indicates that the magistrate judge ordered Plaintiff to submit items needed to render this case into proper form within twenty days, and specifically informed Plaintiff that if he failed to do so, this case would be dismissed *without prejudice*. The mail in which the Order was sent to Plaintiff at the address provided when the case was filed has not been returned to the Court, thus it is presumed that Plaintiff received the Order, but has neglected to comply with it within the time permitted under the Order.

Plaintiff's lack of response to the Order indicates an intent to not continue prosecuting this case, and subjects this case to dismissal. *See* Fed. R. Civ. P. 41(b)(district courts may dismiss an action if a plaintiff fails to comply with "any order of the court."); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*).

Accordingly, this case is dismissed *without prejudice*. The Clerk of Court shall close the file.¹

IT IS SO ORDERED.

s/J. Michelle Childs
United States District Judge

January 28, 2011
Greenville, South Carolina

¹ Under General Order, Misc. No. 3:07-5014-JFA, this dismissal *without prejudice* does *not* count as a "strike" for purposes of the "three strikes" provision of 28 U.S.C. § 1915(g). If Plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk's Office in Columbia (901 Richland Street, Columbia, South Carolina 29201).